IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.9132 of 2004

Between:

Bakam Ramachandra Rao S/o Sammaiah
R/o 8-3-313/2 , Saptagiri Colony, Karimnagar,

Karimnagar Dist rict.

..... PETITIONER

AND

1 The District Collector, Adilabad District at Adilabad.
2 The Mandal Revenue Officer, Bellampally Mandal, Adilabad District.
3 Bharat Petroleum Corporation limited, Warangal Territory, rep. by

its Territory Manager (Retail) Goods Shed Road, Warangal.

R3 is impleaded as per Court order dt.12-10-2004 in WPMP 18498 of 2004

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the Proceediongs No. B/6226/03, dt.08/04/2004 of the second respondent as being highly arbitrary, illegal, unconstitutional and against principles of natural justice apart from contrary to Sec 3(5) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act 1977 and consequently se aside the said orders.

Counsel for the Petitioner: MR.D.BHASKAR REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent No.3: MR.O.MANOHER REDDY

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9132 OF 2004

ORDER:

The land admeasuring Acs.8.00 in S.No.3 of Paiki of Akenepalli Village was assigned to one Gummula Ashalu in the year 1955. Subsequently, the petitioner, who also claims to be the landless poor person purchased the property from Ashalu and he leased out the 4081 Sq.yards to third respondent for establishing a petroleum outlet. It appears, the District Collector, Adilabad District, by communication dt.31.3.2004 directed the Mandal Revenue Officer to resume the land from the petitioner who purchased the land in contravention of the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, the Act), and the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 (for short, the Rules). The Mandal Revenue Officer by the impugned order dt.8.4.2004 after recording the above instructed to take the land into Government custody after conducting panchnama. This order is assailed in the Writ Petition on the ground that the same is in contravention of the provisions of the Act and the Rules.

In the counter affidavit filed by the Mandal Revenue Officer it is stated that as the petitioner herein was not available for service of notice, the same was affixed to the premises of third respondent. Therefore, it is sufficient compliance with the provisions of the Act.

After hearing the learned counsel for the petitioner and the learned counsel for the

respondents, as well as perusing the material placed before this Court, this Court is of considered opinion that Rule 3 of the Rules has not been followed by the Mandal Revenue Officer before ordering resumption of the land. Therefore, though effective alternative remedy by way of appeal under Section 4A of the Act is available to the petitioner, this Court does not treat it as bar to entertain the Writ Petition. The impugned order is in contravention of Rule 3 of the Rules as well as principles of natural justice and therefore it is accordingly set aside. Liberty is given to third respondent to take necessary orders from first respondent, if so advised. In this Writ Petition, no direction can be granted to third respondent to commence with business. It shall be open to the petitioner to raise all the contentions before the Mandal Revenue Officer by way of explanation as and when notice is issued. The Mandal Revenue Officer shall complete the exercise within a period of six weeks from the date of receipt of a copy of this order duly complying with Rule 3 of the Rules and issuing notice to petitioner.

The Writ Petition, with the above observations and directions, is disposed of. No costs.

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(V.V.S.RAO, J)

2.11.2004

bnr

Note:CC by 8.11.2004.

(B.O)

bnr

To

1 The District Collector, Adilabad District at Adilabad.
2 The Mandal Revenue Officer, Bellampally Mandal, Adilabad District.

3 Two CCs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad (O.U.T)

4 Two CD Copies.